

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUANA PEREZ,

Plaintiff,

-against-

STATE OF NEW YORK; POLICE DEPT. OF
NEW YORK; PORT AUTHORITY BUS
STATION,

Defendants.

1:19-CV-9329 (CM)

ORDER

COLLEEN MCMAHON, Chief United States District Judge:

By order dated October 9, 2019, the Court dismissed this action without prejudice as a duplicate action because Plaintiff already had a substantially similar action pending in this Court, *Perez. v. NY Police*, No. 1:19-CV-8251, 2 (CM) (S.D.N.Y.).¹ The Court entered judgment in this action on October 10, 2019.

Nearly two months later, on December 9, 2019, the Court received Plaintiff's motion for an extension of time to appeal the dismissal without prejudice. (ECF 5.) For the following reasons, the motion is denied.

DISCUSSION

Rule 4(a)(1)(A) of the Federal Rules of Appellate Procedure requires a notice of appeal in a civil case to be filed within thirty days of entry of judgment. *See* Fed. R. App. P. 4(a)(1)(A). The district court may extend the time to file a notice of appeal, however, if the motion is filed within thirty days of the expiration of the time to file notice of appeal, and if the moving party shows excusable neglect or good cause for untimely filing. *See* Fed. R. App. P. 4(a)(5)(A).

¹ That action was dismissed on December 6, 2019, for Plaintiff's failure to submit the IFP application. *Perez*, ECF 1:19-CV-8251, 4.

Plaintiff filed this motion seeking an extension of time to appeal within thirty days after the time to file a notice of appeal expired. The Court therefore considers whether she shows excusable neglect or good cause for the untimely filing.

Plaintiff uses the Court's motion for extension of time to file a notice of appeal, which directs the litigant to explain why the notice was not filed within the required time period. Plaintiff's motion is blank and does not include any reason why the appeal was not timely filed. Accordingly, Plaintiff fails to show excusable neglect or good cause for the untimely filing.

CONCLUSION

Plaintiff's motion for an extension of time to appeal (ECF No. 5) is denied. The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: December 12, 2019
New York, New York



COLLEEN McMAHON
Chief United States District Judge